

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7111 of 1996

WITH

SPECIAL CIVIL APPLICATION NO.7112 of 1996.

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the judgement?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

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NUTAN BHARTI TRUST

Versus

GOVERNMENT OF GUJARAT

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Appearance:

MR JD AJMERA for Petitioner

MR AM RAVAL for Respondent No. 1

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 07/10/96

ORAL JUDGEMENT

Rule. Ms. V.K.Parekh, learned Asstt.G.P., at the suggestion of the Court, has accepted service of rule and has accepted copy of the petition and waives service of rule on behalf of respondent No. 1 and 2 herein. Mr. A.M.Raval, learned advocate appearing for respondent No.3 waives service of rule on behalf of respondent No.3. On

the facts and in the circumstances of the case, the matter is taken up for final hearing to day.

2. The petitioner employer has dismissed respondent No.3 from service after holding disciplinary action against him and respondent No.3 having been found guilty of commission of misconduct alleged against him. Respondent No.3 feeling aggrieved ,preferred appeal before respondent No.2. In course of the said appeal, additional documents were taken on record and on the basis of such documents, appeal was allowed by respondent No.2 on 21st August, 1996. The petitioner employer feeling aggrieved, has preferred this petition before this Court against the order made by respondent No.2. It is the contention of Mr. Ajmera, learned advocate for the petitioner that the respondent No.2 has taken on record additional documents and his findings are based on such additional documents copies of which were not served to the petitioner. Learned advocate Mr. Raval appearing for respondent No. 3 concedes that such documents have been taken on record and not served upon the petitioner. Thus, the impugned order having been made in violation of the principles of natural justice and fair play, same requires to be quashed and set aside. The impugned order made by respondent No.2 herein is hereby quashed and set aside. It is directed that the respondent No.2 shall hear the appeal preferred by respondent No.3 in accordance with law after affording fair opportunity to both the parties to the litigation. The petitions are allowed to the aforesaid extent. Rule is made absolute accordingly. Both the petitioner and respondent No.3 shall have liberty to file application for expeditious hearing by the competent authority. This order is made without prejudice to the rights and contentions of both the parties.

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